

F A C T S

(DEFENDANT: Ben Curry, [Warden [ ]]

**ORIGINAL**

**EXHIBIT B**

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: **MAR 07 2007**

**Group Appeal**

In re: Cleveland, H-60545  
Correctional Training Facility  
P.O. Box 686  
Soledad, CA 93960

IAB Case No.: 0607122

Local Log No.: CTF 06-03011

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner J. G. Arceo, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that Correctional Officer Abanico has violated departmental policies and abused his authority by inappropriately touching him. He contends that numerous other complaints have been filed due to inappropriate touching of inmates' genitalia, groin, and inner thighs. He requests that there be a stop to this disrespectful treatment.

**II SECOND LEVEL'S DECISION:** The reviewer found that an appeal inquiry was conducted into the appellant's complaint. Supervisory staff completed the inquiry, notified the appellant upon completion, and notified him of the inquiry's findings at the Second Level of Review (SLR). The appeal was partially granted at the SLR.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** Upon review of the documentation submitted, it is determined that the staff complaint has received the required review.

In the event that staff misconduct is substantiated, the institution will take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population, and would not be released to the appellant. In this case, the institution has reported that the inquiry has been concluded.

Although the appellant has the right to submit an appeal as a staff complaint, the request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the appeals process.

**B. BASIS FOR THE DECISION:**

California Penal Code Section: 832.5, 832.7, 832.8, 2933

California Code of Regulations, Title 15, Section: 3004, 3084.1(e), 3391

**C. ORDER:** No changes or modifications are required by the institution.

The appellant shall, pursuant to CCR section 3084.2(f)(2), share this response with the other inmates who signed this appeal.

This decision exhausts the administrative remedy available to the appellant within CDCR.



N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, CTF  
Appeals Coordinator, CTF

State of California

Department of Corrections and Rehabilitation

# Memorandum

Date : January 11, 2008

To : Inmate Cleveland  
H-60545/ FW-256L  
Correctional Training Facility

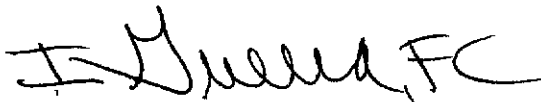
Subject : **LETTER DATED DECEMBER 12, 2007**

This is in response to your letter dated December 12, 2007, addressed to Thomas Moore, Assistant Director. Your letter has been sent to my office for a reply. In your letter you state that one of the Correctional Officer at CTF is violating inmates sexually.

A review of your Central File reveals that on 6/23/07 you filed a CDC 602 in regards to the same issue. The 602 was subsequently classified as a Staff Complaint and sent to the unit for processing. The appeal was partially granted in that an inquiry into your allegations was conducted. As staff personnel matters are confidential in nature, the results of the investigation may not be shared with staff, members of the public, or inmates.

For further assistance contact your assigned Correctional Counselor T. Verdesoto.

Sincerely,



**I. Guerra**  
**Facility Captain, Unit III**  
**Correctional Training Facility**

**M e m o r a n d u m**

Date : April 13, 2007

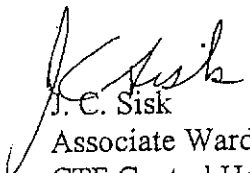
To : Inmate Cleveland  
H-60545 FW-256USubject : **STAFF COMPLAINT**

This is in response to your letter addressed to the Director of Corrections. Your letter was forwarded to the Correctional Training Facility and my office for reply. In your letter, you state you have filed with the court in Monterey County allegations of staff misconduct by a correctional officer at this institution. You are also requesting that this officer not be allowed to conduct "body searches." You allege this officer is still violating inmates by inappropriate touching of their genitalia.

Your appeal log #CTF-C-06-03011 has been investigated. In the event staff misconduct is substantiated, the institution will take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population. In this case, the inquiry has been completed.

Although you have the right to submit an appeal as a staff complaint, the request for administrative action regarding staff or the placement of documentation in a staff's personnel file is beyond the scope of the appeals process.

Should you have any further concerns in regard to the aforementioned issues, contact Lieutenant D. Silva, Unit III Program Lieutenant.

  
J. C. Sisk  
Associate Warden (A)  
CTF Central Housing

*cc: C-file*

State of California

# Memorandum

Date : February 13, 2007

To : Inmate Jones, J-64508  
FW-307U  
CTF CentralSubject: **STAFF COMPLAINT RESPONSE - APPEAL # CTF-S-07-00147**

**APPEAL ISSUE:** Inmate Jones alleges that Officer Abanico is sexually harassing him during clothed body searches. Jones claims Abanico is grabbing his penis and pulling downward. Jones claims this to be an illegal search and requests that searches by Officer Abanico cease and desist. Lieutenant Chavez is alleged to be retaliating against inmate Jones by threatening to place Jones in AD/SEG due to allegations of staff misconduct.

It should be noted that the original appeal that was withdrawn by inmate Jones was dated in August, 2006. Jones then sought relief from the Monterey County Superior Court. The court informed him he must first exhaust his administrative grievance process prior to court filings.

**DETERMINATION OF ISSUE:** A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

- ☒ PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY  
☐ REFERRED TO THE OFFICE OF INTERNAL AFFAIRS

**SUMMARY FOR APPEAL INQUIRY:**

You were interviewed on January 18, 2007 by Associate Warden (A) J. C. Sisk and stated in essence that your appeal includes all the information. You felt Officer Abanico sexually harassed you during a clothed body search. You also felt Lt. Chavez impeded your ability to file an appeal by threatening to place you in AD/SEG because of allegation of staff misconduct.

Appropriate staff were interviewed as a result of your allegations of staff misconduct.

**FINDINGS FOR AN APPEAL INQUIRY:**


Your appeal is **PARTIALLY GRANTED** at the ☒ Second level, as an inquiry into your allegation has been conducted. **ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.** As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Page 2

Inmate Jones, J-64508  
CTF-S-07-00147

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

Please print and sign below:

  
\_\_\_\_\_  
Warden (second level)

2/16/07  
Date

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: **JUN 1 1 2007**

In re: John Charles, T-56703  
Correctional Training Facility  
P.O. Box 686  
Soledad, CA 93960

IAB Case No.: 0611432

Local Log No.: CTF 06-03019

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner J. G. Arceo, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that on August 18, 2006, during a clothed body search Correctional Officer (CO) Abanico sexually assaulted him by grabbing his scrotum and his penis. He contends that CO Lynch and Correctional Sergeant Padilla were present during this misconduct. The appellant requests that CO Abanico stop harassing him; sexually fondling his scrotum, and leaning on him in a sexual manner during a search and whispering in his ear as a result of filing this complaint.

**II SECOND LEVEL'S DECISION:** The reviewer found that an appeal inquiry was conducted into the appellant's complaint. Supervisory staff completed the inquiry, notified the appellant upon completion, and notified him of the inquiry's findings at the Second Level of Review (SLR). The appeal was partially granted at the SLR.

**III DIRECTOR'S LEVEL DECISION:** Appeal is granted in part.

**A. FINDINGS:** Upon review of the documentation submitted it is determined that the Correctional Training Facility (CTF) shall provide for review to the Inmate Appeals Branch (IAB), a copy of the inquiry conducted into the appellant's allegations into this matter. Based upon the documentation presented modification of the decision reached by the institution is warranted.

**B. BASIS FOR THE DECISION:**

California Penal Code Section: 832.5, 832.8

California Code of Regulations, Title 15, Section: 3004, 3050, 3052, 3391

Administrative Bulletin 05/03: PROCESSING OF ADULT

INMATE/PAROLEE APPEALS,

CDC FORM 602, WHICH

ALLEGES STAFF MISCONDUCT

**C. ORDER:** The CTF shall immediately provide for review to the IAB the inquiry as requested in the Director's Level of Review.

This issue was faxed to the office of Warden.


This decision exhausts the administrative remedy available to the appellant within CDCR.

  
N. GRANNIS, Chief  
Inmate Appeals Branch

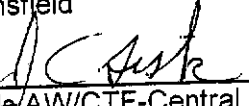
cc: Warden, CTF  
Appeals Coordinator, CTF

CTF-C-06-03019

Attachment E

  
D. Mansfield (First Level)

12-27-06  
Date

  
C. Nally AW/CTF-Central (First Level)  
J.C. SISK

1-16-07  
Date



STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

MAY 17 2007

Date:

In re: James, K-14847  
Correctional Training Facility  
P.O. Box 686  
Soledad, CA 93960

IAB Case No.: 0610802

Local Log No.: CTF 06-03713

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner Michael H. Jensen, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that on December 20, 2006, he was mistreated by staff. The appellant contends that Correctional Officer (CO) Abanico made unreasonable requests of him during a clothed body search which led to his being placed in restraint gear and taken to the unit office. He stated at the office he was interviewed by Correctional Sergeant (Sgt.) Randall, whom he informed of the circumstances that led up to his being escorted to the office. The appellant indicated he was strip searched by the Sgt. who informed him that at times CO Abanico is overzealous and these types of incidents occur. The appellant stated that he followed each order given by CO Abanico until the actions being requested were "performances" rather than related to a random search. The appellant requests CO Abanico is retrained and reprimanded. He also requests a copy of the appeal be placed in CO Abanico's personnel file.

**II SECOND LEVEL'S DECISION:** The reviewer found that there did not appear to be a violation of the regulations in regard to CO Abanico requesting the appellant submit to a random search. The Second Level of Review (SLR) referenced California Code of Regulations, Title 15, Section (CCR) 3287(b). The appeal was denied by the SLR.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** Other than saying CO Abanico wanted him to place his hands on the wall in a different manner than he had the appellant failed to provide any other evidence of staff misconduct. It is apparent by the documentation submitted by the appellant that he supports the effort of other inmates to have CO Abanico removed from the facility. It appears that the appellant desired to add his complaint to a list of grievances against CO Abanico, even though it was a minor issue. If the appellant is aware of the actions and attitude of CO Abanico he should be prepared for the instances he has contact with him. CO Abanico has the right, and is expected, to contact random searches of inmates and their property. If the appellant follows directions and is not in possession of contraband, he has nothing to fear from CO Abanico.

The Director's Level of Review (DLR) has reviewed the appeal documentation and has determined the Correctional Training Facility (CTF) researched the incident, interviewed the parties involved, and determined there was no evidence of wrong doing by CO Abanico. The DLR shall not modify the SLR.

**B. BASIS FOR THE DECISION:**  
CCR: 3001, 3084.1, 3287, 3391

**C. ORDER:** No changes or modifications are required by the institution.

JAMES, K-14847  
CASE NO. 0610802  
PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

A handwritten signature in black ink, appearing to read "N. Grannis", with a stylized flourish at the end.

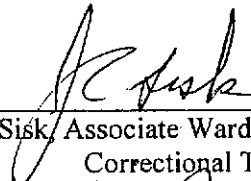
N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, CTF  
Appeals Coordinator, CTF

CTF APPEAL LOG #CTF-C-06-03713

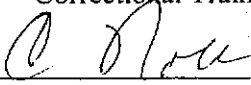
Second Level Reviewer's Response

Reviewed By:

  
J.Sisk, Associate Warden (A) Central Housing  
Correctional Training Facility

2-15-07  
Date

Reviewed By:

  
Ben Curry, Warden (A)  
Correctional Training Facility

2/15/07  
Date

cc: Appeals Office File  
Inmate's Central File

State of California

## Memorandum

Date : August 2, 2007

To : MORRIS, D13147  
GW-344L

Subject: **STAFF COMPLAINT RESPONSE - APPEAL # CTF-S-07-02429**

**APPEAL ISSUE:** On 6-21-07, at 1530 hours, as you were attempting to enter the Unit III Counselor's Office, you were subjected to a clothed body search by Correctional Officer Abanico. During the search, you allege that he disrespected you by groping your scrotum and pinching your penis.

**DETERMINATION OF ISSUE:** A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY

**SUMMARY FOR APPEAL INQUIRY:**

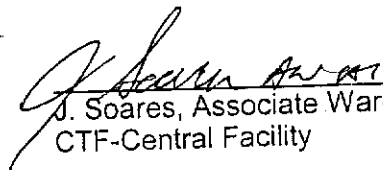
You were interviewed on 7-11-07 by Correctional Sergeant E. G. Randall and stated that you felt that Correctional Officer Abanico searched you three times and touched you aggressively, under the color of authority. There was no additional information to review.

**FINDINGS FOR AN APPEAL INQUIRY:**

Your appeal is **PARTIALLY GRANTED** at the First level, as an inquiry into your allegation has been conducted. **ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE.** As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

Please print and sign below:

  
J. Soares, Associate Warden (A)  
CTF-Central Facility

8/3/07  
Date

State of California

# Memorandum

Date : September 5, 2007

To : MORRIS, D-13147  
CTF-Central Facility – GW-344L

Subject: STAFF COMPLAINT RESPONSE - APPEAL # CTF-S-07-2429

**APPEAL ISSUE:** As you were attempting to enter the Unit III Counselor's Office, you were subjected to a clothed body search and you allege that Correctional Officer E. Abanico searched you in an inappropriately manner by groping your scrotum and pinching your penis.

**DETERMINATION OF ISSUE:** A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

- ☒ PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY  
☐ REFERRED TO THE OFFICE OF INTERNAL AFFAIRS (Note: You will be notified of the conclusion of any internal affairs investigation)

## SUMMARY FOR APPEAL INQUIRY:

You were interviewed on July 11, 2007, by Correctional Sergeant E. Randall. Your appeal was Partially Granted at the First Level. Dissatisfied with the First Level decision, you submitted your appeal for a Second Level of Review. You have not provided any supporting documentation or witnesses to support your appeal, your appeal is being Partially Granted in that an investigation was conducted at this level.

The following information was reviewed as a result of your allegations of staff misconduct: CDC 602, Inmate Appeal Log #CTF-S-07-2429.

## FINDINGS FOR AN APPEAL INQUIRY:

Your appeal is **PARTIALLY GRANTED** at the ☐ First level. ☒ **Second level**, as an inquiry into your allegation has been conducted. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

B. Curry  
B. Curry, Warden – CTF-Soledad

9/11/07  
Date

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: **FEB 07 2008**

In re: Robert Morris, D13147  
Correctional Training Facility  
P.O. Box 686  
Soledad, CA 93960

IAB Case No.: 0708808

Local Log No.: CTF-07-02429

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner L. Warren, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that on June 21, 2007, Correctional Officer (CO) Abanico searched his person before he entered a counselor's office and while pat searching him, "groped" his genitalia. The appellant considers this an abuse of authority. He is requesting that CO Abanico not be allowed to conduct searches in this manner, and to suffer no reprisals as a result of filing this complaint.

**II SECOND LEVEL'S DECISION:** The reviewer found that this appeal was processed as a staff complaint and the appropriate supervisory staff conducted an inquiry into this matter. The inquirer reviewed the submitted material and interviewed the involved parties. Release of the finding or information related to the investigation is confidential and will not be disclosed. This appeal was partially granted to the extent that CDCR policy prohibits retaliation against inmates for filing appeals.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** The Director's Level of Review reviewed the appellant's issues and the institution's examination and conclusions as addressed within the Second Level of Review. Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff, and a confidential appeals inquiry has been completed. On January 17, 2008, the written report of the appeal inquiry was obtained and examined at the Director's Level of Review. The inquiry was found to be consistent with Administrative Bulletin (AB) 05/03 and with CDCR policy. The finding of the inquiry is confidential and cannot be disclosed. The appellant is protected by CDCR policy from reprisal for filing an appeal.

**B. BASIS FOR THE DECISION:**

California Penal Code Section: 832.5, 832.7, 832.8

California Code of Regulations, Title 15, Section: 3004, 3268, 3271, 3273, 3287, 3380

AB 05/03: PROCESSING OF ADULT INMATE/PAROLEE APPEALS, CDC FORM 602, WHICH ALLEGE STAFF MISCONDUCT

**C. ORDER:** No changes or modifications are required by the Institution.

ROBERT MORRIS, D13147

CASE NO. 0708808

PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a horizontal line and a small flourish.

N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, CTF  
Appeals Coordinator, CTF

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

## INMATE/PAROLEE

Location: Institution/Parole Region

Log No.

Category

## APPEAL FORM

CDC 602 (12/87)

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Robert Morris	D-13147		C-303 up

A. Describe Problem: On 6,21,07 I was called to the Unit#3 Counslors office at 1530 to sign my board papers along with inmate Escobar D-52755. Before entering the Counslors office I was clothed searched by C/o Abanico where my person was disrespected in a aggressively way under the Color of Authority by a Prison Guard. When C/o Abanico first groped my scrotum and pinched the tip of my penis I made a attempted to tell his actions was 'nt nessassery only to be ordered to place my hands back on the wall. When C/o Abanico continued his search of me, again he groped my scrotum and smashed my penis. I again

If you need more space, attach one additional sheet.

See attached sheet

B. Action Requested: For this Officer to be placed where he has no contact with any inmates until all matters with him are settled to keep him from abusing his athority and to have a free will to provoke others to come off the wall in anger from his searches. I also want no further reprisal for filing this 602 against c/o Abenico in any way.

Inmate/Parolee Signature: Robert Morris D13147Date Submitted: 6-22-07

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

## D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed

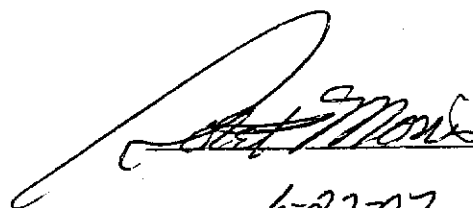
CDC Appeal Number:

Board of Control form BC-1E, Inmate Claim





1 turned and voiced myself only to be told to turn and get back  
2 on the wall. After he was done I asked him why he felt he  
3 needed to do what he had done for it upset me for his search  
4 was very unprofesional and improper only to be told to get  
5 back on the wall even though the search was complete. I feel  
6 that c/o Abanico violated my human rights and done so under  
7 the Code of Color And with the Authority of the Peace Officers  
8 Badge he wares every day. I know that this is'nt the first  
9 complaint made on this Officer But yet he is allowed by this  
10 Administration to continue doing as he pleases. This search  
11 was wittnessed by inmate Escobar D-52755 who was standing  
12 next to me waiting to be searched to enter the counslors  
13 office with me.  
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6-22-07

Luis C. Escobar

Sept.14,2007

D-52755

C.T.F.

C-226

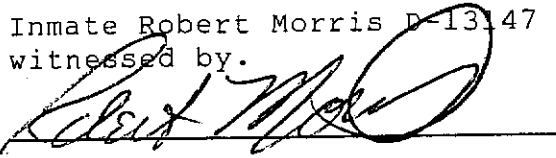
P.O.Box#689

Soledad, Ca.

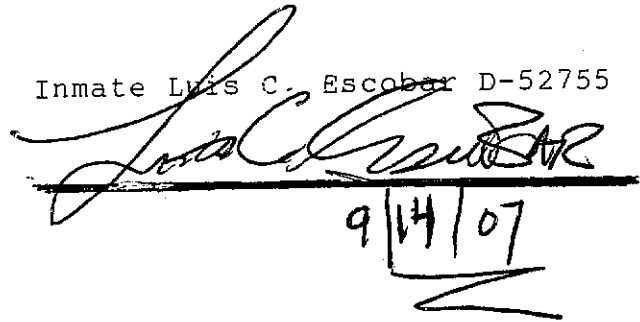
=93960=

On June 6,07 at approximately 1530 I Luis C. Escobar D-52755 witnessed C/O Abanico conducted a clothed body search on Inmate Morris D-13147. During said search I was taken back by the manor in which C/O Abanico Groped and Touched and Molested Inmate Morris D-13147. I witnessed Inmate Morris reacting to this abuse. Inmate Morris stepped back and stated that it was'nt necessary to be searched in this manor mainly to have his private parts touched, only to be told to get back on the wall and was further abused for a second time. This caused me to pay more attention because he done it a second time. I feel that C/O Abanico did not conduct this search in a Professional manor and abused his Authority over this inmate.

Inmate Robert Morris D-13147  
witnessed by.



Inmate Luis C. Escobar D-52755

  
9/14/07

STATE OF CALIFORNIA  
 RIGHTS AND RESPONSIBILITY STATEMENT  
 CDCR 1858 (Rev. 10/06)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

## RIGHTS AND RESPONSIBILITY STATEMENT

*The California Department of Corrections and Rehabilitation has added departmental language (shown inside brackets, in non-boldface type) for clarification purposes.*

*Pursuant to Penal Code 148.6, anyone wishing to file an allegation of misconduct by a departmental peace officer must read, sign and submit the following statement:*

YOU HAVE THE RIGHT TO MAKE A COMPLAINT AGAINST A POLICE OFFICER [this includes a departmental peace officer] FOR ANY IMPROPER POLICE [or peace] OFFICER CONDUCT. CALIFORNIA LAW REQUIRES THIS AGENCY TO HAVE A PROCEDURE TO INVESTIGATE CITIZENS' [or inmates'/parolees'] COMPLAINTS. YOU HAVE A RIGHT TO A WRITTEN DESCRIPTION OF THIS PROCEDURE. THIS AGENCY MAY FIND AFTER INVESTIGATION THAT THERE IS NOT ENOUGH EVIDENCE TO WARRANT ACTION ON YOUR COMPLAINT; EVEN IF THAT IS THE CASE, YOU HAVE THE RIGHT TO MAKE THE COMPLAINT AND HAVE IT INVESTIGATED IF YOU BELIEVE AN OFFICER BEHAVED IMPROPERLY. CITIZEN [or inmate/parolee] COMPLAINTS AND ANY REPORTS OR FINDINGS RELATING TO COMPLAINTS MUST BE RETAINED BY THIS AGENCY FOR AT LEAST FIVE YEARS.

COMPLAINANT'S PRINTED NAME	COMPLAINANT'S SIGNATURE	DATE SIGNED	
INMATE/PAROLEE PRINTED NAME	INMATE/PAROLEE'S SIGNATURE	CDC NUMBER	DATE SIGNED
<i>Robert Morris</i>	<i>Robert Morris</i>	<i>D13147</i>	<i>11-4-07</i>
RECEIVING STAFF'S PRINTED NAME	RECEIVING STAFF'S SIGNATURE	DATE SIGNED	

DISTRIBUTION:  
 ORIGINAL -  
 Public - Institution Head/Parole Administrator  
 Inmate/Parolee - Attach to CDC form 602  
 Employee - Institution Head/Parole Administrator  
 COPY - Complainant

*C/o Refuses to  
 Sign*

1 Robert Morris  
2 P.O. Box 689  
3 Soledad, CA. 93960-0689  
4 CDC ID#: D-13147  
5 Pro se.

6  
7  
8 MONTEREY SUPERIOR COURT  
9 FOR THE COUNTY OF MONTEREY

10 Robert MORRIS,

No. \_\_\_\_\_

11 Petitioner,

12 vs.

13 Officer ABANICO,

MOTION REQUEST AGAINST RETALIATION  
FORTH WITH.

14 Defendant. \_\_\_\_\_

15 I, Robert Morris, in the above entitled matter ask this Court to  
16 Grant a Motion against official for Retaliation "forth with." Reason:  
17 Petitioner filed a 602 on officer Abanico for improper search of his  
18 person. That officer groped his scrotom and smashed his penis. His  
19 His superiors Sargent or Lieutenant will hear Petitioner 602 on that  
20 officer. Therefore, the officers will Retaliation against Petitioner  
21 by placing him into Ad/Seg (hole), for filing that 602. A prison can-  
22 not punish a Inmate for compaining or to keep him from filing. (See  
23 Allah v. Seiverling, (3rd Cir. 2000) 227 F.3d 220.)


24 Petitioner would like to remind this Court that under the equal  
25 protection law a prison official cannot discriminate against Petitioner  
26 on the basis of his race or any other arbitrary category. Also the  
27 Fourth Amendment limits on prison search and seizures. (See Engelk  
28 8th Cir. 1991) 943 F.2d 921, 923-24.)

1 The Due Process Clause in corporates onces right under the fourth  
2 Amendment, to be free from unreasonable searches or seizures of your  
3 property. It includes the protection of the Eighth Amendement against  
4 "Cruel and Unusual Punisshment."

5 The Official is clearly Retaliation against Petitioner for  
6 clearly exercising his legal right by filing a 602 into the administ-  
7 ration. Retaliation is in the form of placing Petitioner into Ad/Seg  
8 (hole).

9 The Official is making it very difficult for Petitioner to con-  
10 cemtrate in the matter in hand. For these reason is why this motion  
11 against Retaliation be Granted.

12 Dated: June 22, 2007.

  
Robert Morris  
CDC ID#: D-13147/C-303  
Pro se.

13  
14 ///

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STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**

CDC 602 (12/83)

Location: Institution/Parole Region

CTF-C

Log No.

06-03104

Category

7-8

1.

2. NOV 17 2006

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

**STAFF COMPLAINT**

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
Burts	p-72028	N/A	G-win/ 125-L

**A. Describe Problem:****STAFF COMPLAINT**

(See Inmate Attachment Sheet)

If you need more space, attach one additional sheet.

**B. Action Requested**

To have this "Staff Complaint" fully investigated pursuant to (SADEA) Guidelines regarding "Sexual Harassment" complaints. To have staff properly trained not to touch inmates genitals. To insure I am not retaliated against for my properly filed complaint.

Inmate/Parolee Signature

Jeffrey (Todd) Burts

Date Submitted:

September 19, 2006

**C. INFORMAL LEVEL (Date Received)**

Staff Response:

Staff Signature:

Date Returned to Inmate:

**D. FORMAL LEVEL**

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature:

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

RECEIVED

Date Submitted:

CDC Appeal Number:

SEP 25 2006

NOV 17 2006

06-03104

CTF APPEALS

CTF APPEALS



STAFF COMPLAINT  
(INMATE ATTACHMENT SHEET)

On 9/7/2006 while I was walking down the CTF-Central center corridor returning from the legal library to my housing unit I was stopped by C/O E. Abanico and subjected to a pat down search. During the search Abanico ran his hand up my inner thigh and cupped my penis, then squeezed my genitals. At which time I protested the touching. My protest drew the attention of Sgt. Padilla who came over. I told Sgt Padilla about the touching of my genitals to which he stated "he can touch you where ever he wants". I can think of no reason for a guard to touch an inmates genitalia, or that such touching would serve a legitimate penalogical interest. After my protest C/O Abanico, Sgt. Padilla proceeded to rip through my legal materials and wallet contents. They took numerous documents. C/O Abanico also took my state issued green ID and stated "if I decide not to 602 him I will get it back". C/O Abanico's conduct could only be construed as "sexual harassment" as delineated under the "Sexual Abuse in Detention Elimination Act" (SADEA) enacted under Assembly Bill (AB 550). I have spoken with other inmates who have been "sexually harassed" or "accosted" by C/O Abanico and filed complaints only to be approached by senior staff and told "that if they did not drop their complaint they would be placed in Ad/Seg". This is a clear veiled-threat to coerce inmates into dropping their complaints which is a gross violation of the (SADEA) and related penal codes. It is illegal for staff to ask me to drop either my staff complaint or sexual harassment claims without a full investigation of the incident. Moreover, Retaliatory measures such as coercion shall not be tolerated and shall result in disciplinary and/or criminal prosecution. C/O Abanico's conduct and Sgt. Padilla tacit approval of it are clear violations of the (SADEA) and related penal codes and should be fully investigated and punished. It would be a greater violation of my rights were I to be placed in Ad/Seg and forced to loose numerous program privileges, while staff investigate this incident. Should staff ascertain that Abanico or Padilla are such a threat that my safety and security are at jeopardy due to this investigation then my placement in Ad/Seg would put me at a greater risk as it would isolate me from being able to gain assistance should future abuses arise. It would also not limit these individuals from accessing me as they have access to all areas of the prison. Moreover, it does not make sense for staff to claim that my filing a meritorious claim against staff puts me at risk unless said staff is known to be a problem or has a history of retaliation. These tactics by staff are in line with the so-called "Nightrider" and "Green wall" methods that plague CTF and CDCR.

**EMERGENCY APPEAL**  
 P SUANT TO CCR, §3084.7. (a)

**INMATE/PAROLEE  
 APPEAL FORM**

CDC 602 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. \_\_\_\_\_

1. \_\_\_\_\_

2. \_\_\_\_\_

2. \_\_\_\_\_

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME	NUMBER	ASSIGNMENT	UNIT/ROOM NUMBER
K. Trask	B-92755	Second Watch Porter D-Wing	D-Wing 333L

A. Describe Problem: This Inmate Appeal is being submitted as a EMERGENCY GROUP APPEAL, pursuant to California Code of Regulations and Rehabilitations CCR. Title 15 3084.7. & 3084. 2. (f) Also pursuant to 3084. 1. Right to Appeal (d) WHICH STATES: No reprisal shall be taken against an inmate for filing an appeal. This group appeal is being submitted as a result of the Continuous Repetitive and Increasingly Unprofessional conduct including Harassment, Verba Abuse and Aggressive actions perpetrated against the inmates housed in Central Facility D-Wing by C/O Abanico. Creating a Hostile Environment and Intense Atmosphere. Appellant's further contend that these actions are sometime viewed and seemingly condoned by Central Facility

If you need more space, attach one additional sheet.

B. Action Requested: 1. That (NO) reprisals/retalitory actions of harassment by C/O Abanico or Co-Worker's, Supervising Staff, Employees or Agents. His immediate removal from present Job Post (Central Facility D-Wing Door Officer or Wing Officer). That he be reprimanded including but not limited to Code of Ethics Training regarding Procedural Conduct and a Written Letter of Instruction. That he be ordered to Cease and Desist all Illegal Acts against Inmates.

Inmate/Parolee Signature: K. Trask Date Submitted: June 22, 2007

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

Staff Signature: \_\_\_\_\_ Date Returned to Inmate: \_\_\_\_\_

**D. FORMAL LEVEL**

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature: \_\_\_\_\_ Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:





## (SUPPLEMENTAL REPORT CONTINUES)

Corridor staff and Supervisors. Which violates CCR Rules and Regulations and California Penal Code § 147 Officer Inhumanely or Oppressive Treatment Prisoners; Punishment. Direct Participation, Failure to act and indirect participation STATES: [Any person in a position of power who is made aware of wrong doings and have the power to correct it and fail to do so will lose any immunity and be subjected to Criminal and/or Civil Lawsuit]. The Courts ruled "If a Supervisor is present on the scene of an unlawful act by his or her subordinates, or directs in some manner the act in question, he or she is subject to liability. Maclin v. Paulson. 627 F. 83 (7th Cir., 1980) Dellums v. Powell. 556 F. 2d. 216 (D.C. Cir. 1977). Acquiescence in the known acts of subordinates is a sufficient basis for a finding of Supervisorial liability. Alvarez v. Wilson. 431 F. Supp. 136, 146 (N.D. Ill. 1977). Downs v. Department of Public Welfare. 368 F. Supp. 454, 464 (E.D. P.A. 1973). The conduct as addressed constitutes a clear and repetitive violation of CCR. Sections § 3004. Rights and Respect for Others, 3270 General Policy, 3271. Responsibility of Employees. 3278. Control of Inmates, 3391 Employee Conduct and 3413 Incompatible Activity. This conduct is submitted as OPPRESSION.

STATEMENT OF FACTS: On numerous occasions Central Facility D-Wing Inmates and other similarly situated inmates have been subjected to numerous forms of harassment. (e.g.) Verbal Harassment, Destruction of Personal Property and other items on their person, Unprofessional Conduct, and Aggressive Body Searches. All of which has created a (an) Hostile Environment and Intense Atmosphere within D-Wing. This writer and (ALL) of the undersigned inmates believe that this conduct is being condoned by Central Facility Supervisors and Staff. After numerous complaints, verbal and written against C/O Abanico, he, day in and day out continues in the above conduct. Because of this blatant and continuous disregard for CDCR Rules and Regulations, this writer and (ALL) of the undersigned inmates have chosen to exercise our legal right to appeal.



1 ISADORE A. PIPER, J 51562  
2 P. O. BOX 689 E 136 L  
3 SOLEDAD, Ca. 93960  
4  
5  
6  
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF MONTEREY

10 AFFIDAVIT OF ISADORE A. PIPER

11 I, Isadore A. Piper, "Herein-After" an inmate of Correctional Training  
12 Facility [Here-in-After].

13 Located at P. O. Box 689 C-136 L - Soledad, California 93960-0689.

14 Do hereby swear; Declare under the Penalty of Perjury that the following  
15 statements are true, factual and accurate to the best of my knowledge, which  
16 describes the events and allegations expressed in this document and any attach-  
17 ed documents..

18 I have been searched by C/O Abanico three different times and each  
19 time this officer fondles my body rather than give a pat-search. The first  
20 time he searched me he had me to place both hands on the wall and had me to  
21 keep stepping back until my hands were about to come off of the wall, then he  
22 told me to spread my feet apart as far as they could go, then he placed one  
23 hand in the middle of my back PUSHING me towards the wall, then he placed one  
24 of his legs between mine. He then reached around under my arm and felt my chest  
25 then squeezed my chest, then rubbed his hand down to my waist. Then he switched  
26 to the other side of my body, did the same thing. Then he went down to my ankle  
27 feeling up my leg to my testicles which he grabbed my testicles and penis and  
28 squeezed, when I moved he let go and backed off. The second search was basisly

1 the same thing. The third search, while he was feeling on my body I came off of  
2 the wall and several officer's RAN to his side telling (yelling) get back on  
3 the wall. I told them this man has NO RIGHT to feel on a man and go all in his  
4 pockets etc..... I don't know WHAT he might put in my pocket, etc... I haven't  
5 been searched by him since that incident.....

6 Signed this 6th. day of June, 2007 at Correctional Training Facility in Soledad  
7 California.

  
ISADORE A. PIPER

NEW SIGNATURES COLLECTED IN JUNE 2007

AME	CDC #	CELL
JOHNSON	P-24564	- 242 <sup>low</sup>
Harris	H-11447	- 3094P
Robinson	K-50719	124U
Mack	T-52899	328L
LITTLE A.	D-14389	DIW-317L
BROWN J	K-56520	DIW 3384P
Jenkins	D-42936	D-229L
<del>John</del>	E-93587	D-316
Wilson	K-46880	D-134 <sup>+</sup>
Starkiss	K-6381	D-310 <sup>u</sup>
Sampson	E-06383	D-306
indquist	P-45135	D-119 <sup>u</sup>
Grasby	E-76073	D-342
Wm,	F-08523	D-201
J. Smith	H-29417	D-215
VanderMoore	D-55989	D-301A
Anthony Watkins	H-49417	D-104
William Paul	K-21201	D-343
Anthony Bell	K-12090	D-108
N. Jones	H-82416	D-233
Brington, B.	K-38723	D-309L
Ames, M.	K-14847	D-212up
Blawax, P.	#D-76501	D-W-223
Robert Satchell	C-20595	D-120L
Herbert Johnson	K-24823	D-212L
Anthony Tucker	H-88797	
<del>Robert</del> Kennedy	D-05729	
Wright	H-3476	125 <sup>u</sup>
Wright	K-0712	301 <sup>u</sup>
Wright, A.	H-75600	314A
Turn, T.	J-90989	217 <sup>u</sup>
Sampson, A	K-23816	206 <sup>u</sup>
Greg Steffens	H-89848	215up
ICKERTING CB	C-75826	311-u

NAME	CDC #	CELL
HORTAL	C-94850	D-237L
OZUNA	H-37226	D-1164P
GEERLINGS	D-39248	D-115-L
Hammitt	K-19864	D-103 <sup>u</sup>
<del>Wright</del>	P-28826	236
<del>A. Jones</del>	J-62434	116
Jackson	H-67425	313
SKAGER	H-22257	134-u
<del>J. Brown</del>	J-57033	DIW 326L
J. BROWN	D-108-L	P-29606
A. Crawford	D-220	D-5983>
A. Avila	D-102	P-65160
R. Rayas	D-137	D-76520
R. Smith	D-340	T-77890
A. Davis	B-133 <sup>u</sup>	P-30719
Wilson, M	D-132L	J-09158
Moore	D-138	E-76185
<del>W. C.</del>	D-306	J-62307
Jones	D-617low	H-41954
Dawson	D-203L	C-8839
HAMMONS	D-229	T-52658
DAVIS	D-122L	J-87572
Anderson	D-342 <sup>u</sup>	D-18178
<del>O. Smith</del> , <del>O. Smith</del>	D-3374	H-65957
M. Woodcock	D-112L	H-27029
Ramon Cortes		33830
Carmen Wines	H-75213	D-105
W. Guyton	B-79344	D-219 <sup>u</sup>
Orizello, Roddy	E-49408	301 <sup>u</sup>
<del>W. C.</del>	D-33369	
Robert Eller	P-35380	121Low
Treger	J-71785	D-235U
W. R. Fox	K-451142	D-212 <sup>u</sup>
Cartwright W.	H-05800	D-231

PAGE 3

NAME	CDC #	CELL
Brown V	50889	-334L
Ainsworth H	76014	139L
Belvins K	19382	201B
Anderson E	4657	1054
N. Moreno K	50835	240L
Anthony Paula P	12677	
Araceli Araceli T	52368	
James Collier K	73962	
Murphy T	3105	
Barfield Boris D	84089	
Juguel E	47825	304
Burns K	43663	307
Sanborn J. K	02840	DW 320
Anderson M. P	29881	D-12140
Villar D	08412	DW 207V
Bula J	26628	319
Bury H	80005	109L
Wootis K	16809	205L
Valencia J	73309	D2284
Johnson C	36895	1234
Frederick H	72373	D106
Harold J	11450	D327
Mokhe J	159128	DW 242
J. K	42937	D-W 201A up
Robert D. P	79954	DWing 201K
Terrance Haynes J	61920	
Jill C. S	19328	D-1360
Wendy K. H	94110	D-1224
John Beres K	64498	D-313L
Wendy Hamel E	55251	-315L
Wendy Hamel E	13628	D-1360
Ed Miller K	32161	D-220L
Edward W. K	06192	D-221L
Bogsky W. K	08109	D230

NAME	CDC #	CELL
Scott Bm	E29857	2264P
Robert Bristol	H00463	226 Low
S.B. Murray T	31304	222U
INGRAM W	E22526	129-Low
Jack Sanford H	11017	234 Low
Arkos E	8884	3018 Low
Bugs A	D20043	112 UP
Johnson F	D-W 203	K-62454
Black J	DW 218	CL 373
ARELL D	DW-118	D-2073
Howe H	63394	D-119
Bennett T	94665	D-118
J. James H	77162	D 1284P
Dee Snifford		D-25479
Manuel Motta T	74053	D-232
Agnes H. H	64004	D215L
Robert Brown		D-809
Cameron Stephen E	47178	
Craig, Reginald H	72301	D2
John J. P	31128	D2
T. C. Bru	E-69529	D-231
J. Gearin K	17433	333
W. Clemens H	27162	DW 101
GALAZ S	H-71984	316
Wendy A	P. 05537	
Wendy A	J-88105	
Jose Hidalgo K	66110	DW 21
Wendy H	E42129	DW 211
Mike Maguire K	24253	338
James S. Williams E	45220	D-Wing 219
Robert Bryant D	2274P	
Wendy H	D49677	D-227L
Wendy H	T-51570	D-322
Manuel J. H	H-85274	D322

TOTAL 214

NAME CDC # CELL

TORRES C-36860 323

VALLEZ C-71236 D-325 Low

MIRELES P-37159 D-325 up

Alley, R. H-48419 D-329

Staley K-48703 D-329

HOKT H-54796 D-336

Morris E-52327 D-336

Boordley T-54382 D-338

Harris D-91884 D-301-A

Mr. L. Brown P-6333 D-315 Low

Johnson R. C-58775 DW-312

Hargreave K-70157 DW-123

Porter J-06829 DW 209

Lawrence C-79313 DW 311

Romaly E-66196 DW-343L

NICHOLS H-40495 DW 312

Torbin E C-32240 D-126-L

Adilla E-81772 D-324 up

ARUNAWA, A H-58291 D-221 up

Saddie K-58959 D-124-L

Scott, B. G-1422-DW-231

John Scott H-51775-D-238 or

NAME

CDC #

CELL



TAFF Complaint

R-5331P(8)

INMATE/PAROLEE  
APPEAL FORM  
CDC 802 (12/87)

Location: Institution/Parole Region

Log No.

Category

1. CTF-CENTRAL

1. CTF-C-

2. JAN 03 2007

2. FEB 16 2007

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Series C06-15s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

NAME JAMES, Marvin	NUMBER K-14847	ASSIGNMENT Unassigned	UNIT/ROOM NUMBER (CTF-C-D-212-Up)
-----------------------	-------------------	--------------------------	--------------------------------------

A. Describe Problem: On 11/2/06 appellant was returning from the law library; heading back to D-Wing. Appellant was stopped by C/O E. Abanico, to conduct a random search. Appellant was asked to put his food on the floor, to which he responded to C/O that he would not. Appellant was then asked to put his food along with other items on the window seal of B-Wing Clerk's Office, to which I complied with. Then, the C/O asked appellant to remove his jacket so that he could perform a search, and appellant did so. Appellant was then asked to place his hands on the B-Wing wall so that he could conduct the search. Appellant complied with that. The C/O told appellant that his hands was not on the wall the right way. Appellant then asked

(CONTINUED ON ATTACHED PAGE)

If you need more space, attach one additional sheet.

B. Action Requested: That this C/O be retrained in the way that he deals with inmate's, and that this C/O be reprimanded for his unprofessional behavior; also that a copy of this complaint be placed in this C/O's personnell file.

Inmate/Parolee Signature: *Marvin James*

Date Submitted: 11/8/06

C. INFORMAL LEVEL (Date Received: )

Staff Response:

Staff Signature:

Date Returned to Inmate:

## D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification change, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

Signature:

Date Submitted:

Noted: Only Form 802 appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number:

06-03713

NOV 13 2006

JAN 3 2007

JAN 19 2007

JAN 18 2007

CTF APPEALS

CTF APPEALS

CTF APPEALS

BYPASS

RECEIVED  
STATE APPEALS  
BRANCH  
MAR-6 2007

BYPASS



9-1-06  
STATE OF CALIFORNIA

Staff Complaint

DEPARTMENT OF CORRECTIONS

**INMATE/PAROLEE  
APPEAL FORM**  
CDC 602 (12/87)

Location: Institution/Parole Region

Log No. 06-03019

Category 7-8

1. CTF-C  
2.

1.  
2.

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

**STAFF COMPLAINT**

NAME Mr. John-Charles	NUMBER T-56703	ASSIGNMENT N/A	UNIT/ROOM NUMBER EW-124 U
--------------------------	-------------------	-------------------	------------------------------

A. Describe Problem: On 8-18-06 I was returning from evening chow, as Sgt. Padilla, C/O Mrs. Lynch, and C/O 'Abanico' was working the corridor in front of C-wing! C/O Mrs. Lynch had another prisoner on the wall searching that prisoner when C/O Abanico saw me and told me to get up against the wall. Now C/O Abanico and Sgt. Padilla was both standing guard, as C/O Mrs. Lynch was performing a pat down/ searching another prisoner after, C/O Abanico saw me and told me get up against the wall and to face the wall with my hands against the wall. I complied, and waited some two minutes while all present officers finish (see attachment)

If you need more space, attach one additional sheet.

B. Action Requested: I am requesting that C/O "Abanico" cease his harassment and sexually fondling of my scrotums, leaning on me in a sexual manner and whispering in my ear and as a result of filing this complaint I do not want to be placed in "Ad-SEG" pending this investigation and any other reprisals taken against me for filing this complaint against these three officers!!  
Inmate/Parolee Signature: Mr. John-Charles Date Submitted: 8-18-06

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

**BYPASS**

Staff Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

**D. FORMAL LEVEL**

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

**BYPASS**

Signature: \_\_\_\_\_

RECEIVED

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

CDC Appeal Number: \_\_\_\_\_

06-03019

searching that prisoner. Now, C/O 'Abanico,' kept saying "sir" back your legs up prior to even patten me down, so my rear end would stick out more for his personal satisfaction! Now, he then grab the back of my shirt and balled it in his fist, and stated for me to back up some more, "I said man I'm already in the patten down postion!" He then proceeded to pat me down, in which he committed a 'Sexual Assualt' upon me in violation of penal code 243.4 where when he patted me down, this C/O kept touching my 'Penis' and attempted to place his arm between my gluteus and I stated 'man, what the hell is you doing!' "I am not one of these gay inmates. So he grabbed my shirt tighter, and went up and down each of my legs, each time touching my penis and scrotum. he then pulled my sweats half way down as I had shorts underneath which had my wallet in my pocket (and also had my prison ID., which he or they never asked for), gave my wallet to C/O Mrs. Lynch who atated "this guy is a pack rat, look at all the papers in his wllet," which was very unprofessinoal and as my sweats was half down, C/O 'Abanico,' proceeded to pat me down again, touching me inappropriately, committing his sexual abuse upon me, in front of his supervisor, Sgt. Padilla, who was smiling and amuse by this sexual battery, he was allowing his subordinate officer to committ upon me. Now after a while of being placed on the wall, C-wing was called for chow & proceeded from their unit, to go to chow(dinner), so C/O Abanico, who still wanted to "Sexually Assualt' me had me get up against the wall on the other side of the corridor so he (they) can allow c-wing to proceed with chow movement, where C/O "Abanico," again patted me sown, after already having my pockets empty and patted me down three times already all in front of his supervisor, Sgt. Padilla,' & fellow co-worker, C/O mrs. Lynch. where he then put his forearm across my shoulder blade, and I said "get your hands off of me, I'm not your resting post, as he took my eating utensil out of the clear sandwich bag and rubbed his filthy and unsanitary gloves up and down my eating utensil in a sexual obscene motion, after throwing the plastic sandwich bag to the ground, handing me back my eating utensils and kicked my water jug over (for no reason). The whole time C/O mrs. Lynch is going through my wallet, and throwing papers out of my wallet, which some had #'s on them and notes, in which they did not allow me to retrieve. And before C/O Abanico, started this abuse of his authority, and committing this "sexual assualt" upon me, the man tells me to 'remove my wave cap' all why waited for him to finish searching the other prisoner he was assisting C/O Mrs. Lynch and standing guard! I am lodging this staff complaint against all 3 officers, want them all brought up on charges for 'Sexual Assualt,' Aiding and Abetting,' harassment, 'misconduct,' and abuse of power/authority, all while provking black prisoners and wanting to "Demoralize us straight (heterosexual) Black Men!!" This is also a reprisal act, for filing complaint against other officers for misconduct, and harassment

In ending, C/O Abanico violated the operational proceedures of "O.P 100" on sexual harassment and committed a violation of penal code §243.4 and I want him brought up on charges and I will like no more reprisals taken against me in any form and I don't want to be placed in the hole or 'Ad-Seg' for filing this complaint!!!!

Respectfully Submitted,  
Mr. John Charles, T-56703  
4-18-06

20 2007

INMATE/PAROLEE

APPEAL FORM  
CDC 602 (12/97)

TREAT AS ORIGINAL

L No 07-00147

Category

You may appeal any policy, action or decision which has a significant adverse affect upon you. With the exception of Serious CDC 115s, classification committee actions, and classification and staff representative decisions, you must first informally seek relief through discussion with the appropriate staff member, who will sign your form and state what action was taken. If you are not then satisfied, you may send your appeal with all the supporting documents and not more than one additional page of comments to the Appeals Coordinator within 15 days of the action taken. No reprisals will be taken for using the appeals procedure responsibly.

STAFF COMPLAINT

NAME <i>Desmond Jones</i>	NUMBER <i>264518</i>	ASSIGNMENT <i>Penitentiary - Dining Hall 2</i>	UNIT/ROOM NUMBER <i>F-307R App</i>
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A. Describe Problem: UNDER ADVISEMET FROM SUPERIOR COURT OF MONTEREY JUDGE MARLA O. ANDERSON DEC. 18, 2006 ORDER, I AM RE-FILING ON THE AUGUST 3, 2006 INCIDENT CONCERNING OFFICER E. ABANICO.

(See, attached 602 Appeal ORIGINAL) The method of search used by Officer E. Abanico entrenches on my right to privacy of body by touches bringing him in direct conflict with Title 15 § 3401.5(E)(F); disregards my civil rights which can never be suspended, Cal Jur 3d § 1-4; Cal Jur 3d Criminal Law - civil - § 402. Sgt. S. Engstrom disregarded my request for assistance questioning my sexual orientation while claiming it is normal procedure (Title 15 § 3401.5(f)). The search procedure used by Officer E. Abanico resulted in him

If you need more space, attach one additional sheet.

(Continued on additional sheet)

B. Action Requested: Issue is to be resolved by civil rights remedy. Retraining and sensitivity awareness is noted. Cease and desist with a search procedure which violates the law. Violation of Title 15 3401.5(E)(F) was intentional with the color of law, and regardless of the retaliatory measure used to violate my right to appeal, this 602 will not be dropped.

Inmate/Parolee Signature: *Desmond Jones*Date Submitted: *12/27/06*

C. INFORMAL LEVEL (Date Received: \_\_\_\_\_)

Staff Response: \_\_\_\_\_

BYPASS

Staff Signature: \_\_\_\_\_

Date Returned to Inmate: \_\_\_\_\_

D. FORMAL LEVEL

If you are dissatisfied, explain below, attach supporting documents (Completed CDC 115, Investigator's Report, Classification chrono, CDC 128, etc.) and submit to the Institution/Parole Region Appeals Coordinator for processing within 15 days of receipt of response.

BYPASS

Signature: \_\_\_\_\_

RECEIVED

Date Submitted: \_\_\_\_\_

Note: Property/Funds appeals must be accompanied by a completed Board of Control form BC-1E, Inmate Claim

INMATE  
BRANCH  
MAR - 7 2007  
DECEIVED  
CDC Appeal Number:

DEC 29 2006

07-00147

CTF APPEALS

A SECTION COTINUED: Page 1 of 1 of CITIZEN'S COMPLAINT on CORRECTIONAL OFFICER E. ABANICO and search procedure used - 8/3/06

grabbing my penis during a routine pat search. Proceeding the filing of the 602 appeal on August 4, 2006, I was advised by Lt. L. Chavez, I would be placed in Administrative Segregation due to the seriousness of the allegations, sexual harassment/sexual misconduct. I understood this to be unjustified - retaliatory - so I withdrew the 602 appeal. The investigation commenced inspite of my withdrawal, and no regard was given to the WOLFF PROCEDURAL PROTECTIONS which are initiated under the due process regarding non-adverse placement into Administrative Segregation. I request an investigation under California Code and Regulations Title 15 § 3401.5 into the legitimacy and adherence to applicable procedures meant to protect both the officer and the person being searched, so in no regard, do I harbor a desire to jeopardize one under Title 15 § 3335(a).

The Office of Internal Affairs has been contacted for this purpose.

I will not drop this 602. The method used by Officer E. Abanico is inappropriate and amounts to sexual harassment.

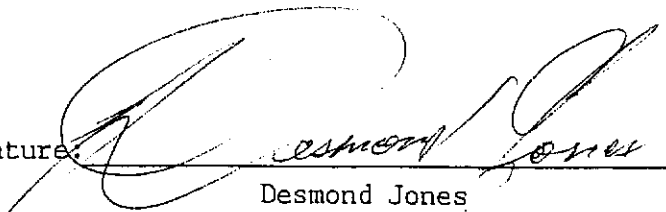
The willingness of the Administration to circumvent its own rules and the law of California when a serious complaint arises is a rhetorical question to the effect of exhausting Administrative remedies.

I am not a security concern and provided as evidentiary proof a November 14, 2006 filed MOTION is attached. I have continued and will continue to be a non-threat to all those involved.

~~DESCRIPTION OF SEARCH PROCEDURE USED BY OFFICER E. ABANICO~~

~~My hands were placed on the waist between B and C-Wings, legs spread in normal fashion. E. Abanico rubbed my upper body and searched my pockets. To search my legs, he rubbed down and then up my right leg. On the left leg he rubbed down and on his way up the groin/inner thigh area instead of stopping, E. Abanico continued reaching between my legs, and with his hand on my crotch, he pulled his hand down grabbing my genitalia. The search was not complete until his hand reached back between my legs. I cannot describe and/or produce any policies of any facility but that was and is inappropriate touching of my body. Additional documents are attached. Title 15 § 3335(a)(2).~~

December 26, 2006:

Signature: 

Desmond Jones

STATE OF CALIFORNIA  
DEPARTMENT OF CORRECTIONS AND REHABILITATION  
INMATE APPEALS BRANCH  
P. O. BOX 942883  
SACRAMENTO, CA 94283-0001

**DIRECTOR'S LEVEL APPEAL DECISION**

Date: **MAY 24 2007**

In re: Jones, J-64508  
Correctional Training Facility  
P.O. Box 686  
Soledad, CA 93960

IAB Case No.: 0611096

Local Log No.: CTF 07-00147

This matter was reviewed on behalf of the Director of the California Department of Corrections and Rehabilitation (CDCR) by Appeals Examiner Michael H. Jensen, Facility Captain. All submitted documentation and supporting arguments of the parties have been considered.

**I APPELLANT'S ARGUMENT:** It is the appellant's position that on August 3, 2006, he was subjected to a pat search that resulted in Correctional Officer Abanico grabbing his penis. The appellant believes the search was improper and an inappropriate touching of his body. The appellant contends Correctional Lieutenant Chavez attempted to retaliate against him by threatening to place him in the Administrative Segregation Unit due his allegation of staff misconduct. The appellant requests staff cease searching inmates in a manner that violates the law, and staff receive training in the proper methods of searching. The appellant stated the issue would be resolved "by civil rights remedy."

**II SECOND LEVEL'S DECISION:** The reviewer found that an inquiry was conducted into the allegations made by the appellant. Stating that all staff personnel matters were confidential in nature, and the results of the inquiry would not be shared with staff, members of the public or other inmates, the appeal was considered granted in part.

**III DIRECTOR'S LEVEL DECISION:** Appeal is denied.

**A. FINDINGS:** Upon review of the documentation submitted, it is determined that the appellant's allegations have been reviewed and evaluated by administrative staff and an inquiry has been completed by Correctional Training Facility (CTF). In the event that staff misconduct was substantiated, the institution would take the appropriate course of action. All staff personnel matters are confidential in nature and not privy to the inquiries of other staff, the general public or the inmate population, and would not be released to the appellant. However, upon completion of final review, or culmination of an inquiry, the appellant is to be notified that an inquiry has been completed.

The Director's Level of Review (DLR) has reviewed the appeal documentation and has determined CTF conducted an inquiry of the appellant's staff complaint as dictated by the regulations. The DLR shall not modify the Second Level of Review.

**B. BASIS FOR THE DECISION:**

California Penal Code Section: 832.5, 832.7, 832.8

California Code of Regulations, Title 15, Section: 3004, 3391

Administrative Bulletin 05/03: PROCESSING OF INMATE/PAROLEE APPEALS, CDC FORMS 602, WHICH ALLEGE STAFF MISCONDUCT

**C. ORDER:** No changes or modifications are required by the institution.

JONES, J-64508  
CASE NO. 0611096  
PAGE 2

This decision exhausts the administrative remedy available to the appellant within CDCR.

A handwritten signature in black ink, appearing to be 'N. Grannis', with a large loop and a horizontal line extending to the right.

N. GRANNIS, Chief  
Inmate Appeals Branch

cc: Warden, CTF  
Appeals Coordinator, CTF



State of California

# Memorandum

Date : February 13, 2007

To : Inmate Jones, J-64508  
FW-307U  
CTF CentralSubject: **STAFF COMPLAINT RESPONSE - APPEAL # CTF-S-07-00147**

**APPEAL ISSUE:** Inmate Jones alleges that Officer Abanico is sexually harassing him during clothed body searches. Jones claims Abanico is grabbing his penis and pulling downward. Jones claims this to be an illegal search and requests that searches by Officer Abanico cease and desist. Lieutenant Chavez is alleged to be retaliating against inmate Jones by threatening to place Jones in AD/SEG due to allegations of staff misconduct.

It should be noted that the original appeal that was withdrawn by inmate Jones was dated in August, 2006. Jones then sought relief from the Monterey County Superior Court. The court informed him he must first exhaust his administrative grievance process prior to court filings.

**DETERMINATION OF ISSUE:** A review of the allegations of staff misconduct presented in the written complaint has been completed. Based upon this review your appeal has been handled as follows:

- ☒ PROCESSED AS A STAFF COMPLAINT APPEAL INQUIRY  
☐ REFERRED TO THE OFFICE OF INTERNAL AFFAIRS

**SUMMARY FOR APPEAL INQUIRY:**

You were interviewed on January 18, 2007 by Associate Warden (A) J. C. Sisk and stated in essence that your appeal includes all the information. You felt Officer Abanico sexually harassed you during a clothed body search. You also felt Lt. Chavez impeded your ability to file an appeal by threatening to place you in AD/SEG because of allegation of staff misconduct.

Appropriate staff were interviewed as a result of your allegations of staff misconduct.

**FINDINGS FOR AN APPEAL INQUIRY:**

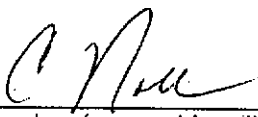
Your appeal is PARTIALLY GRANTED at the ☒ Second level, as an inquiry into your allegation has been conducted. ALL STAFF PERSONNEL MATTERS ARE CONFIDENTIAL IN NATURE. As such, results of any inquiry/investigation will not be shared with staff, members of the public, or inmates. Although you have the right to submit a staff complaint, a request for administrative action regarding staff or the placement of documentation in a staff member's personnel file is beyond the scope of the staff complaint process.

Page 2

Inmate Jones, J-64508  
CTF-S-07-00147

Allegations of staff misconduct do not limit or restrict the availability of further relief via the inmate appeals process. If you wish to appeal the decision, you must submit your staff complaint appeal through all levels of appeal review up to, and including, the Director's Level of Review. Once a decision has been rendered at the Director's Level of Review, your administrative remedies will be considered exhausted.

Please print and sign below:

  
\_\_\_\_\_  
Warden (second level)

2/16/07  
Date